

Response
Applicants: Rudy Mazzocchi et al.
Serial No.: 10/051,648

Attorney Docket: MVA1001USC6

REMARKS

Claims 1 to 126 are pending.

The Examiner requires restriction of one of the groups listed as follows:

- I. Claims 1-52, drawn to a system comprising a guidewire, a filter and retraction members, classified in class 606, subclass 108 and method for using the claimed system.
- II. Claims 53-64, drawn to a system comprising a guidewire, a filter, retraction members and a retrieval catheter, classified in class 606, subclass 108 and a method of using the claimed system.
- III. Claims 65-76, drawn to a system comprising a guidewire, a filter, retraction members, a retrieval catheter and a delivery catheter, classified in class 606, subclass 108 and a method of using the claimed system.
- IV. Claims 77-126, drawn to a system comprising a guidewire, a filter, retraction members, a retrieval catheter, a delivery catheter and a balloon catheter, classified in class 606, subclass 108 and a method of using the claimed system.

Applicants respectfully traverse this restriction requirement. In response to this restriction requirement, Applicants provisionally elect, with traverse, claims 1 to 52 (Group I) drawn to a system comprising a guidewire, a filter and retraction members and a method for using the claimed system.

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The restriction requirement among Groups I, II, III and IV is improper because the Examiner has not shown that examining the subject matter of Groups I, II, III and IV would constitute a serious burden. M.P.E.P. § 803 provides:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

Thus for a restriction requirement to be valid, the Examiner must establish the following two criteria: (1) the existence of independent and distinct inventions (35 U.S.C. § 121); and (2) that the search and examination of the entire application cannot be made without serious burden (M.P.E.P. § 803).

The Examiner has not shown that the second requirement has been met. The Examiner has indicated one class and one subclass for the subject matter of Groups I, II, III and IV. Applicants respectfully submit that a search involving only one class and one subclass within the same subject matter does not constitute a serious burden on the Examiner.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the restriction requirement as applied to the subject matter of Groups I, II, III and IV and request that the subject matter of these groups be examined together.

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If any additional fees are due in connection with the filing of this paper, please charge the fees to our Deposit Account No. 16-2312. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our deposit account.

Respectfully submitted,

Date: 8/12/04

By


Customer No. 009561

Terry L. Wiles, Esq. (29,989)

Patrick J. O'Connell, Esq. (33,984)

Miriam G. Simmons (34,727)

Popovich, Wiles & O'Connell, P.A.

650 3rd Avenue South, Suite 600

Minneapolis, MN 55402

Telephone: (612) 334-8989

Representatives of Applicants